



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,569	04/15/2004	Cor F. van Egmond	2004B025	9135
23455	7590	11/24/2006	EXAMINER	
EXXONMOBIL CHEMICAL COMPANY			JOHNSON, EDWARD M	
5200 BAYWAY DRIVE			ART UNIT	
P.O. BOX 2149			PAPER NUMBER	
BAYTOWN, TX 77522-2149			1754	

DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

C

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/825,569		Applicant(s) VAN EGMOND ET AL.	
Examiner Edward M. Johnson		Art Unit 1754	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

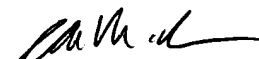
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-31.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


Edward M. Johnson
Primary Examiner
Art Unit: 1754

Continuation of 11. does NOT place the application in condition for allowance because: It is argued that claims 1-31 were rejected... of the Office Action. Applicant is correct that both Vaughn and Williamson are relied on and cited under in the §103 portion of the Office Action.

It is argued that Williamson, unlike Vaughn, is drawn to... platinum-containing catalyst particles. This is not persuasive because Williamson does not "teach away" from Applicant's claimed process because Williamson does not specifically teach that such processes should be avoided.

It is argued that to the extent that the Examiner is attempting... cannot be used piecemeal. This is not persuasive because Applicant appears to admit that Williamson teaches various applications, including "hydrogenation and dehydrogenation", and not only reforming, as Applicant appears to later suggest. Thus, one of ordinary skill would not be required to "summarily ignore the majority of teachings", since there are varied teachings from which one of ordinary skill would reasonably select any single one for a desired purpose.

It is argued that for instances, the Final Office Action indicated... contact with air. This is not persuasive because Applicant appears to admit that contact with air is disclosed, arguing only that such air is not separated. However, such air would be considered separated from the atmosphere, since it is taken into the system. And, in any case, the secondary reference, Williamson, discloses separation of air into oxygen and nitrogen streams. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Further, Williamson does not "teach away" from low temperature gas streams because Williamson does not specifically teach that low temperatures should be avoided.

It is argued that furthermore, the mere disclosure in Vaughn... pending claims 9-10. This is not persuasive because Applicant appears to admit that Vaughn discloses a fluidized catalyst bed, which would obviously, to one of ordinary skill, at least suggest using a fluidizing medium. This disclosure is the basis of the Examiner's "rationale", which was provided in the Final Rejection. Applicant appears to further admit that polymerization is disclosed, which would obviously, to one of ordinary skill, suggest a polymerization catalyst in a process for catalyst regeneration.

It is argued that additionally, because Williamson teaches using separated air... effluent stream (claim 31). This is not persuasive for reasons already of record addressing those claims which are repeated in remarks.

It is argued that similarly, Applicants respectfully submit... reference to claims 21-23. This is not persuasive because Applicant appears to admit that methanol conversion is disclosed, which would obviously, to one of ordinary skill, suggest oxygenates, since methanol is an oxygenate.

It is argued that the mere disclosure of an item does not teach... or provide said item. This is not persuasive for the reasons above. Prima facie obviousness has been established, and Applicant provides no argument as to why oxygenates would not be obvious over a disclosure of methanol, arguing only that the burden has not been shifted.

It is argued that additionally, regarding claim 8... and NOT air. This is not persuasive because both Vaughn and Williamson are relied upon. Thus, it is not improper to rely on disclosures within each reference. Applicant appears to admit that such disclosures are made in the references, arguing only that they should not be combined. However, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).